

**IN THE CIRCUIT COURT OF RAY COUNTY
STATE OF MISSOURI**

STATE OF MISSOURI ex rel.)	
ERIC S. SCHMITT, in his)	
official capacity as Missouri)	
Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21RY-CV00228
)	
RAY COUNTY MISSOURI)	
)	
and)	
)	
RAY COUNTY COMMISSION,)	
)	
Respondents.)	

CONSENT JUDGMENT

The Attorney General of the State of Missouri ("Attorney General") and Ray County and the Ray County Commission ("Commission" and collectively "Respondents") assent to the entry of this Consent Judgment. The parties advise the Court that they consent to its terms for settlement purposes only, and they conditioned their consent upon the Court approving this document in its entirety.

The Court has considered the Attorney General's Petition, which alleged that Ray County and the Commission violated the Missouri Sunshine Law. The Court is satisfied that the provisions of this Consent Judgment are

intended to resolve the issues raised by the Petition, and that the parties desire to terminate this controversy by consenting to the entry of this judgment without trial. The Court retains jurisdiction over the parties and this matter in order to enforce the terms of this Consent Judgment.

The parties agree to the following:

1. **Objectives.** The objectives of the parties to this Consent Judgment are to promote the purposes of the Missouri Sunshine Law, including access to public meetings and transparency in the conduct of public business.

2. **Jurisdiction.** The Commission consents to this Court's jurisdiction for purposes of this litigation and for the execution and enforcement of this Consent Judgment. This Court shall retain jurisdiction to enforce the terms of this Consent Judgment for a period of one (1) year as provided in Section V.D.

3. **Parties Bound.** The provisions of this Consent Judgment jointly and severally bind all parties to this action as well as their respective agents, servants, employees, heirs, successors, assigns, and successors in elected or appointed office. The parties consent to this Consent Judgment through their duly authorized representatives.

4. **Modification.** The parties must agree in writing and must receive approval from the Court in order to modify or amend this Consent Judgment.

5. **Reservation of Rights.** This Consent Judgment shall not be construed to limit the rights of the Attorney General to obtain penalties, declaratory

relief, or injunctive relief under the Sunshine Law for violations of the Sunshine Law not related to the facts and events alleged in the Petition.

6. **Costs.** Each party shall bear its own attorney's fees, court costs, and litigation expenses incurred as a result of the investigation or litigation of the lawsuit, and neither party shall have any financial responsibility for the attorney's fees, court costs, and litigation expenses incurred by the other party.

7. **Findings of Fact and Conclusions of Law.** Each party stipulates that each of the findings of fact and conclusions of law articulated below are true, accurate, and undisputed.

I. Parties

8. Eric Schmitt is the duly elected Attorney General of the State of Missouri and has authority to seek judicial enforcement of the Missouri Sunshine Law, §§ 610.010 to 610.026.

9. Respondent Commission is a public governmental body by and through the members of the Commission under § 610.010(4), and its meetings, actions, and records are subject to the provisions of Missouri's Sunshine Law. Of the three current Commission members, two members were not serving at the time of the allegations addressed in this Consent Judgment.

II. General Provisions

10. If any provision of this Consent Judgment is declared invalid by a court of competent jurisdiction, the rest of this Consent Judgment shall remain in full force and effect and shall not be affected by such declaration.

11. This Consent Judgment embodies the entire agreement and understanding of the parties with respect to the subject matter contained herein.

12. This Consent Judgment is entered into pursuant to the laws of the State of Missouri and shall be governed by and construed in accordance with the laws of the State of Missouri.

13. This Consent Judgment resolves all claims Plaintiff has or may have against Respondents under Chapter 610 for the acts alleged in the Petition.

14. Plaintiff and Respondents agree that Plaintiff will file this Consent Judgment with the Court and will seek approval from the Court for this Consent Judgment.

15. Plaintiff and Respondents agree that execution and filing of this Consent Judgment constitutes actual notice of its terms.

16. Plaintiff and Respondents recommend that the Court approve this Consent Judgment, and enter judgment in accordance with its terms.

17. The parties affix their signatures below and consent to entry of this Consent Judgment. In affixing its signature hereto, by an authorized individual with the authority to bind Respondents to these terms, Respondents acknowledge and attest to receiving the advice of counsel on this matter, having read this Consent Judgment, and fully understanding its terms.

18. Both parties agree that the Attorney General's Office will maintain any documents the Commission provides to the Attorney General's Office as a public record in accordance with both the Sunshine Law and the Attorney General's Office's applicable records retention policy.

III. Findings of Fact and Conclusions of Law

19. On April 9, 2021, the Attorney General filed a lawsuit in the Circuit Court of Ray County, Missouri, Case Number 21RY-CV00228, against Ray County and the Ray County Commission.

20. The lawsuit alleged that Respondents violated § 610.020.1 of the Sunshine Law.

21. Section 610.020.1 requires, in part, that:

“[a]ll public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered. . .”

22. The Commission posted notices and tentative agendas:

- a. On Thursday, April 30, 2020 for a meeting to be held from 9:00 a.m. to 12:00 p.m. on Friday, May 1, 2020;
- b. On Monday, May 4, 2020 (tentative agenda listed Friday, May 4, 2020, but May 4, 2020 fell on a Monday) for a meeting to be held from 9:00 a.m. to 12:00 p.m. on Tuesday, May 5, 2020; and
- c. On Wednesday, May 6, 2020 for a meeting to be held from 9:00 a.m. to 12:00 p.m. on Thursday, May 7, 2020.

23. For each meeting notice, the Commission's posted tentative agenda stated under the "Open Meeting" heading that Commissioners would be "[h]olding discussions with officeholders, employees, vendors and the general public. Voting will happen as needed."

24. The Commission and its members were aware of their obligations under the Missouri Sunshine Law to provide appropriate public notice of meetings, including topics of intended discussion on a tentative agenda, and posting the starting time for a public meeting.

25. The Commission and its members were aware that violations of their Sunshine Law obligations may subject the Commission to legal consequences, which may include fines.

May 1, 2020 Commission Meeting

26. In addition to the general template language the Commission included under its "Open Meeting" header in its posted tentative agenda, the

posted agenda for the May 1, 2020 meeting included under “New Business” that the Commission would be meeting with all officeholders to discuss the 2020 Budget and the opening of the Courthouse on Monday, May 4, 2020.

27. The posted tentative agenda did not make any reference to monies the County anticipated it would receive under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) for COVID-19 Relief.

28. At its meeting on May 1, 2020, the Commission discussed the potential monies the County was projected to receive under the CARES Act and also discussed with the County Treasurer ideas about how the County would need to track and document related expenditures.

29. The Commission knew or had reason to know it would discuss these items of public business before the meeting was held.

30. In holding discussions regarding implementation of the CARES Act funds with other county officials when the posted tentative agenda for the May 1, 2020 meeting did not advise the public that this discussion would occur, the Commission’s tentative agenda for the May 1, 2020 meeting did not comply with § 610.020.1 and was in violation of § 610.020.1 because the posted agenda was not reasonably calculated to advise the public of the matters to be considered.

May 5, 2020 Commission Meeting

31. In addition to the general template language the Commission included under its "Open Meeting" header in its posted tentative agenda, the tentative agenda for the May 5, 2020 meeting included under "New Business" that individuals with Murphy Tractor would appear before the Commission at 10:00 a.m. to "finalize paperwork on 2020 John Deere 333G Compact Track Loader and attachments."

32. The tentative posted agenda did not make any reference to monies the County anticipated it would receive under the federal CARES Act for COVID-19 Relief.

33. The official minutes of the May 5, 2020 meeting reflect that the Commission went into session at 8:42 a.m. even though the posted tentative agenda indicated the Commission would be meeting from 9:00 a.m. to 12:00 p.m.

34. At the time the Commission went into session at 8:42 a.m. on May 5, 2020, it was aware that its posted tentative agenda informed the public that it would not be meeting until 9:00 a.m. that day. The Commission discussed matters of public business after it convened.

35. When the Commission discussed public business between the time it convened until 9:00 a.m., such discussion was in violation of

§ 610.020.1 because the Commission's posted notice informed the public that its meeting would begin at 9:00 a.m.

36. The official minutes of the May 5, 2020 meeting further reflect that the Commission took up other items of business that were not posted in the tentative agenda, including:

- a. Commission discussion with the County Treasurer and County Clerk about the Care Act Account relating to funds received from the CARES Act;
- b. Update to the Commission regarding COVID-19 in Ray County; and
- c. Commission motion and vote to purchase a John Deere 6130M Cab Tractor and Diamond Mower DBM-C-N from the Noxious Weed Account for a cost of \$149,265.00.

37. The Commission knew or had reason to know it would discuss these items of public business before the meeting was held.

38. In holding discussions regarding implementation of the CARES Act funds with other county officials, receiving an update on COVID-19, and voting to purchase a tractor and mower when the tentative agenda for the May 5, 2020 meeting did not advise the public that these discussions and actions would occur, the Commission's tentative agenda for the May 5, 2020 meeting did not comply with § 610.020.1 and was in violation of § 610.020.1 because the

posted tentative agenda was not reasonably calculated to advise the public of the matters to be considered.

May 7, 2020 Commission Meeting

39. In addition to the general template language the Commission included under its “Open Meeting” header in its posted tentative agenda, the tentative agenda for the May 7, 2020 meeting included under “New Business” that Judge Walden would meet with the Commission at 10:00 a.m.

40. The posted tentative agenda did not make any reference to monies the County anticipated it would receive under the federal CARES Act for COVID-19 Relief.

41. The official minutes of the May 7, 2020 meeting reflect that the Commission went into session at 8:52 a.m. even though the posted tentative agenda indicated the Commission would be meeting from 9:00 a.m. to 12:00 p.m.

42. At the time the Commission went into session at 8:52 a.m. on May 7, 2020, it was aware that its posted notice informed the public that it would not be meeting until 9:00 a.m. that day. The Commission discussed matters of public business after it convened.

43. When the Commission discussed public business between the time it convened until 9:00 a.m., such discussions were in violation of

§ 610.020.1 because its posted notice informed the public that its meeting would begin at 9:00 a.m.

44. The official minutes of the May 7, 2020 meeting further reflect that the Commission took up other items of business that were not posted in the tentative agenda, including:

- a. Conference call with a representative from Congressman Emanuel Cleaver's Office to discuss the CARES Act;
- b. Update to Commission about COVID-19 in Ray County; and
- c. Commission motion and vote to direct the County Treasurer to transfer Missouri CARES Act funds from the main account to the Corona Virus Relief Fund checking account.

45. The Commission knew or had reason to know it would discuss these items of public business before the meeting was held.

46. In holding discussions regarding implementation of the CARES Act funds, receiving an update on COVID-19, and voting to transfer CARES Act funds between county accounts when the tentative agenda for the May 7, 2020 meeting did not advise the public that these discussions and actions would occur, the Commission's tentative agenda for the May 7, 2020 meeting did not comply with § 610.020.1 and was in violation of § 610.020.1 because the posted tentative agenda was not reasonably calculated to advise the public of the matters to be considered.

Commission Meetings of May 6, May 13, and May 14, 2020

47. The Commission posted notices advising the public that it would hold open meetings on May 6, 2020, May 13, 2020, and May 14, 2020.

48. For each meeting, the Commission's posted notice indicated the meeting would begin at 9:00 a.m.

49. The official minutes from the May 6, 2020 meeting reflect that the Commission began its meeting at 8:36 a.m.

50. The official minutes from the May 13, 2020 meeting reflect that that Commission began its meeting at 8:16 a.m.

51. The official minutes from the May 14, 2020 meeting reflect that the Commission began its meeting at 8:45 a.m.

52. Each time the Commission went into session before 9:00 a.m. on May 6, May 13, and May 14, 2020, it was aware that its posted meeting notice informed the public that it would not be meeting until 9:00 a.m. The Commission discussed matters of public business after it convened.

53. When the Commission discussed public business between the time it convened until 9:00 a.m., such discussions were in violation of § 610.020.1 because its posted notice informed the public that the meetings of May 6, May 13 and May 14, 2020 would begin at 9:00 a.m.

V. Relief

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiff is entitled to and shall receive a declaration on all four Counts of the Petition that the Ray County Commission violated § 610.020.1 of the Sunshine Law, that such violations constitute knowing violations of the Sunshine Law under § 610.027.3, and that Respondents shall collectively pay a civil monetary penalty of \$1,000. Within thirty (30) days of the effective date of this Consent Judgment, Respondents shall pay the \$1,000 civil monetary penalty by check made payable to the "*State of Missouri (Ray County Schools)*" and mailed, along with a copy of the first page of this Consent Judgment, to: **Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899**; and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that for a period of one (1) year from the date this Consent Judgment is entered by the Court, the Ray County Commission shall take the following steps to assure future compliance with the Sunshine Law:

A. Attend Training Provided by the Attorney General's Office

The current members of the Ray County Commission, County Clerk, and any other staff designated by the Commissioners or County Clerk shall attend one presentation providing instruction regarding the

Sunshine Law. Such training shall be provided by the Missouri Attorney General's Office.

B. Ensure Meeting Notices Posted in Compliance with Law

The Ray County Commission shall post all meeting notices in compliance with § 610.020 and specifically shall:

- i. Ensure that each meeting notice and tentative agenda is posted in compliance with § 610.020.1 and no less than twenty-four (24) hours before the meeting, not counting weekends are holidays, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. The notice shall include a disclosure in a prominent location providing the date and time the notice is posted;
- ii. At the time the notice and tentative agenda is posted, the Commission shall also post the notice and tentative agenda to the Commission's website at least twenty-four (24) hours before the meeting, not counting weekends or holidays, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given;

- iii. Ensure that each meeting notice posted shall provide notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered;
- iv. Ensure that, if the tentative agenda for a meeting includes any discussion regarding the CARES Act or any expenditure of funds related to the CARES Act, the posted tentative agenda will be reasonably calculated to advise the public of those matters to be considered;
- v. Ensure that, if the tentative agenda for a meeting includes any discussion or possible decision on the expenditure of public funds or the transfer of funds between designated county accounts, that the posted tentative agenda will be reasonably calculated to advise the public of those matters to be considered;
- vi. Ensure that each meeting notice provide guidance to any representative of the news media of how to obtain a copy of the meeting notice, including the applicable website where the notice is posted;
- vii. To the extent any notice includes the possibility of a closed meeting or vote to enter into a closed meeting, the

Commission shall provide notice of the date, time and place of such closed meeting and the reason for holding such closed meeting by reference to the specific exception or exceptions allowed pursuant to the provisions of § 610.021.

C. Conduct of Meetings

The County Commission shall ensure that, as it relates to the conduct of its meetings:

- i. That the Commission does not call any public meeting to order or begin conducting any public business earlier than the date and time posted in the notice for that meeting; and
- ii. That if before a public meeting any Commission member intends to discuss any item of public business or have the Commission decide an item of public business, or if any Commission member knows that any item of public business will be discussed or decided at an upcoming Commission meeting—including, but not limited to, adopting any orders or ordinances, entering into any contracts, or committing to the expenditure of any county or other public funds—the Commission shall not discuss or decide that item unless that item has been properly posted

in the Commission's tentative meeting agenda as required under § 610.020.1.

Notwithstanding the above, nothing in Section C shall prevent the Commission from holding any public meeting in compliance with § 610.020.4, so long as the Commission states the nature of the good cause justifying the departure from normal requirements in the minutes.

D. Enforcement

- i. For a period of one (1) year from the entry of this Consent Judgment, if the Attorney General's Office has reasonable cause to believe that the Ray County Commissioners have not complied with any of the terms of this Judgment, the Attorney General's Office may send a written demand to the Ray County Commissioners identifying the provision(s) the Attorney General's Office believes have been violated.
- ii. The Ray County Commissioners shall have fifteen (15) days after it receives the written demand to contest the violation(s) or cure the violation(s).
- iii. If the suspected violation(s) are not resolved or cured within fifteen (15) days, either party may move this Court to enforce this Consent Judgment and adjudicate the suspected violation.

- iv. Notwithstanding the above, the Attorney General's Office may move to enforce this Consent Judgment in this Court to the extent the Attorney General's Office has reasonable cause to believe a suspected violation of the Consent Judgment occurred which cannot be cured through action of the Commissioners.
- v. If the Court finds that the Ray County Commissioners violated any of the terms of the Consent Judgment and the Ray County Commissioners did not cure the violation(s) after receiving notification from the Attorney General's Office, then such violation shall be deemed to be a knowing violation of the Sunshine Law under § 610.027.3 and the Ray County Commission shall be liable to pay a civil monetary penalty of up to one thousand dollars (\$1,000) for any such violation.

James Klahr 9/2/2021
James Klahr Date
Attorney for Petitioner

Bob King, 9/7/2021
Presiding Commissioner Date

Authorized Representative
Ray County

Ivan L. Schraeder 09.08.21
Ivan L. Schraeder Date
Attorney for Respondents

SO ORDERED.

Judge Kevin L. Walden

Date: _____